

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: )  
 ) Case No. 10-93904-BHL-11  
EASTERN LIVESTOCK CO., LLC )  
 )  
Debtor. )  
 )

**SUPPLEMENTAL OBJECTION OF REX ELMORE TO  
TRUSTEE’S PURCHASE MONEY CLAIMS REPORT,  
MOTION TO TRANSFER FUNDS AND NOTICE  
OF RELEASE OF PROCEEDS FROM ACCOUNT**

Rex Elmore (“Elmore”), by counsel, hereby files his Supplemental Objection to the Trustee’s Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from Account, pursuant to this Court’s Order of July 1, 2011, and states as follows:

1. On June 17, 2011, Elmore filed an objection to Trustee’s Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from account. Elmore’s Objection asserted that the Trustee failed to furnish sufficient information to enable Elmore to identify which funds listed in Exhibit A to the Trustee’s Report relate to the cattle Elmore sold to Eastern Livestock. In particular, the Objection asserted that the Trustee’s Report did not identify the seller of cattle to Eastern Livestock so that funds paid to the Trustee can be matched with the cattle sold by Elmore to Eastern Livestock. As stated in his Objection, Elmore claims equitable title to the proceeds under a constructive trust theory.

2. On July 1, 2011, this Court entered an Order requiring the Trustee to “amend and file a replacement ‘Exhibit A’ to the Purchase Money Claims Report to include the following information for each transaction giving rise to Cattle Sales Proceeds . . . to the extent such

information is available to the Trustee: the identity of the seller of the cattle to the Debtor and other material information such as the date of sale, the number, type, and weight of the cattle sold.” *July 1, 2011 First Order Regarding Trustee’s Purchase Money Claims Report*, ¶2.

3. On July 8, 2011, Trustee filed a Notice of Submission of Amended Exhibit A. Trustee also provided the Objectors with a link to a database with some source documents.

4. The Trustee, however, has failed to comply with the Court’s Order. The Amended Exhibit A does not identify the seller of the cattle to Debtor, as required by the Court’s Order. Rather, the Amended Exhibit A identifies the “Cattle Source/Producer State.” The Cattle Source/Producer State in most instances is merely the livestock market where the cattle were sold, and does not identify the sellers of the cattle. So, for example, Elmore sold his cattle to Debtor Eastern Livestock at the Edmonton Livestock Market, and received checks from Eastern Livestock for those cattle sales. Amended Exhibit A groups unidentified sellers in one lump conglomerate of sellers selling through the same livestock market, for example, Edmonton Livestock Market which is listed as “Branch 13 Inventory” or “Edmonton Inventory/KY.” The source documents provide very little further information because the source documents combine the sales of several sellers of cattle through Edmonton Livestock Market, listing, for example, 93 cattle in one sale, or 114 cattle sold in another, with little, if any, identification of the sellers that make up those cattle sales, or the individual weights of each of the cattle included in the sale.

5. Elmore is listed in the source documents provided by the Trustee for the cattle sold by Elmore to Eastern Livestock as part of the Edmonton Livestock “Cattle Source/Producer State” for two of the three checks that were returned as insufficient funds - Check # 016105 and #016135 in the amounts of \$4,010.19 and \$3,914.98, respectively. Therefore, it appears from the

source documents that some of the proceeds held by the Trustee are subject to Elmore's claims as proceeds for cattle sold by Elmore to Eastern Livestock. *See attached Exhibits A and B.*

6. Elmore believes that his claim for Check #016064 in the amount of \$25,728.36 is also included in the groupings of Edmonton Inventory or Branch 13 Inventory listed under "Cattle Source/Producer State" on Amended Exhibit A. However, due to the deficiency of information provided by the Trustee, it is impossible to trace Elmore's sale of cattle to Eastern Livestock through the Edmonton Livestock Market.

WHEREFORE, Elmore respectfully requests that Trustee be required to provide sufficient identification of the sellers of the cattle proceeds held by the Trustee, or in the alternative that Trustee's Motion and all relief requested therein be denied.

Respectfully submitted,

/s/ Susan K. Roberts

Susan K. Roberts

Attorney No. 0010954-37

STUART & BRANIGIN, LLP

300 Main Street, Suite 900

P.O. Box 1010

Lafayette, Indiana 47902-1010

Telephone: (765) 423-1561

Facsimile: (765) 742-8175

**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt  
davidabt@mwt.net

John R. Carr, III  
jrciii@acs-law.com

Kim Martin Lewis  
kim.lewis@dinslaw.com

Mark A. Robinson  
mrobinson@vhrlaw.com

Stephen A. Weigand  
sweigand@ficlaw.com

Deborah Caruso  
dcaruso@daleeke.com

Randall D. LaTour  
rdlatour@vorys.com

Robert Hughes Foree  
robertforee@bellsouth.net

Allen Morris  
amoriss@stites.com

Daniel J. Donnellon  
ddonnellon@ficlaw.com

Ivana B. Shallcross  
ibs@gdm.com

James T. Young  
james@rubin-levin.net

John W. Ames  
jwa@gdm.com

William Robert Meyer, II  
rmeyer@stites.com

John M. Thompson  
john.thompson@crowedunlevy.com

Jeremy S. Rogers  
Jeremy.Rogers@dinslaw.com

James Bryan Johnston  
bjtexas59@hotmail.com

Matthew J. Ochs  
matt.ochs@moyewwhite.com

Meredith R. Thomas  
mthomas@daleeke.com

Judy Hamilton Morse  
judy.morse@crowedunlevy.com

T. Kent Barber  
kbarber@dlgfir.com

Charles R. Wharton  
Charles .R. Wharton@usdoj.gov

John Huffaker  
john.hutffaker@sprouselaw.com

Todd J. Johnston  
tjohnston@mcjllp.com

David L. LeBas  
dlebas@namanhowell.com

Kelly Greene McConnell  
lisahughes@givenspursley.com

Karen L. Lobring  
lobring@msn.com

Jessica E. Yates  
jyates@swlaw.com

Kirk Crutcher  
kcrutcher@mcs-law.com

Sandra D. Freeburger  
sfreeburger@dsf-atty.com

Laura Day Delcotto  
ldelcotto@dlgfir.com

Theodore A. Konstantinopoulos  
ndohbky@jbandr.com

John M. Rogers  
johnr@rubin-levin.net  
Robert H. Foree  
robertforee@bellsouth.net

Walter Scott Newbern  
wsnewbern@msn.com

John Hunt Lovell  
john@lovell-law.net

William E. Smith  
wsmith@k-glaw.com

Timothy T. Pridmore  
tpridmore@mcjllp.com

Edward M. King  
tking@fbtlaw.com

James Edwin McGhee  
mcghee@derbycitylaw.com

C. R. Bowles, Jr.  
crb@gdm.com

Bret S. Clement  
bclement@acs-law.com

Kevin M. Toner  
kevin.toner@bakerd.com

Jesse Cook-Dubin  
jcookdubin@vorys.com

John Frederick Massouh  
john.massouh@sprouselaw.com

Lisa Koch Bryant  
courtmail@fbhlaw.net

Wendy W. Ponader  
Wendy.ponader@bakerd.com

John David Hoover  
jdhoover@hooverhull.com

Sean T. White  
swhite@hooverhull.com

Sarah Stites Fanzini  
sfanzini@hopperblackwell.com

Michael W. McClain  
mike@kentuckytrial.com

Thomas C. Scherer  
tscherer@binghammchale.com

Christopher E. Baker  
cbaker@hklawfirm.com

James M. Carr  
Jim.carr@bakerd.com

Dustin R. DeNeal  
Dustin.deneal@bakerd.com

Elliott D. Levin  
robin@rubin-levin.net  
edl@trustesolutions.com

Terry E. Hall  
Terry.hall@bakerd.com

Ross A. Plourde  
ross.plourde@mcaeeaft.com

/s/ Susan K. Roberts  
Susan K. Roberts